

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ADRIANNA KILLAM,

Plaintiff,

vs.

SPBS LLC,

Defendant.

**NO.**

**COMPLAINT FOR  
DECLARATORY  
AND INJUNCTIVE RELIEF**

**JURY DEMAND**

COMES NOW, Plaintiff, Adrianna Killam, by and through her attorneys at Washington Civil & Disability Advocate for her Complaint for Declaratory and Injunctive Relief to state and allege as follows:

**I. INTRODUCTION**

1. The Americans with Disabilities Act (the “ADA”) and the Washington Law Against Discrimination (“WLAD”) require places of public accommodation to be accessible to people with disabilities.

2. Retail and service businesses like a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment are places of public accommodation within the meaning of Title III of the ADA, 42 U.S.C. § 12181(7), and its implementing

1 regulation, 28 C.F.R. § 36.104.

2 3. ADA accessibility laws and regulations were enacted into law in 1990, nearly 30  
3 years ago, to protect civil rights of persons with mobility and other disabilities.

4 4. Defendant discriminates against individuals with disabilities because Defendant  
5 operates a property as a place of public accommodation that does not comply with ADA laws  
6 and regulations or the WLAD, and thus Plaintiff brings this action to end the civil rights  
7 violations at a place of public accommodation by Defendant against persons with mobility  
8 disabilities.

## 9 II. PARTIES

10 5. Plaintiff Adrianna Killam is a Washington resident and resides in this district.

11 6. Ms. Killam is limited in the major life activity of walking and uses a wheelchair  
12 for transportation. Ms. Killam requires ADA compliant accessible parking in order to patronize  
13 the businesses and restaurants at Defendant's Seattle location at or around 5424 Sand Point Way  
14 NE in Seattle, WA (the "Property").

15 7. Defendant SPBS, LLC is a Washington Limited Liability Company owning and  
16 operating the Property.

## 17 III. JURISDICTION AND VENUE

18 8. This court has jurisdiction pursuant to 28 U.S.C. § 1331, which gives district  
19 courts original jurisdiction over civil actions arising in the Constitution, laws, or treaties of the  
20 United States.

21 9. This court has jurisdiction pursuant to 28 U.S.C. § 1343(a)(4), which gives district  
22 courts jurisdiction over actions to secure civil rights under Acts of Congress.

23 10. This court has jurisdiction pursuant to 28 U.S.C. § 1367, which gives district

1 courts supplemental jurisdiction over state law claims.

2 11. Venue is appropriate in this judicial district under 28 U.S.C. § 1391 because the  
3 practices and procedures that gave rise to Plaintiff's Complaint for Injunctive Relief and  
4 Damages occur in this district and Defendant's Property lies within this district.

5 **IV. FACTUAL ALLEGATIONS**

6 12. The ADA was enacted in 1990, "[t]o establish a clear and comprehensive  
7 prohibition of discrimination on the basis of disability," and prohibits places of public  
8 accommodation from providing separate or unequal benefits and services to individuals with  
9 disabilities.

10 13. Defendant's property is one example of countless places of public  
11 accommodation that are difficult or dangerous to access due to substantial and numerous  
12 compliance issues with the ADA, despite decades of notice to property owners.

13 14. The findings and purpose section of the original ADA, 42 U.S.C. § 12101, states  
14 that, "...individuals with disabilities continually encounter various forms of discrimination,  
15 including outright intentional exclusion, [and] the discriminatory effects of architectural,  
16 transportation, and communication barriers...."

17 15. Thus, Title III of the ADA states in relevant part: "No individual shall be  
18 discriminated against on the basis of disability in the full and equal enjoyment of the goods,  
19 services, facilities, privileges, advantages, or accommodations of any place of public  
20 accommodation by any person who owns, leases (or leases to), or operates a place of public  
21 accommodation." 42 U.S.C. § 12182(a).

22 **Plaintiff**

23 16. Plaintiff Killam resides in Burien, Washington, and travels to Seattle multiple

1 times a week for shopping, dining, entertainment, and social engagements as well as throughout  
2 the year for medical visits.

3 17. Ms. Killam is limited in the major life activity of walking and requires the use of  
4 a wheelchair for mobility and is thus a person with a disability within the meaning of Title III of  
5 the ADA and the WLAD.

6 18. Ms. Killam will visit the Property once accessibility barriers are addressed, and  
7 may be forced to visit before then due to necessity.

8 Defendant's Property

9 19. Ms. Killam does not feel safe accessing the property as-is due to the current  
10 accessibility barriers.

11 20. Defendant's Property does not comply with the ADA's accessibility laws and  
12 regulations under the 1991 ADA Standards for Accessible Design ("1991 Standards") and the  
13 2010 ADA Standards for Accessible Design ("2010 Standards").

14 21. At Defendant's parking lot at the Property, there are at least 102 parking spaces in  
15 two parking areas (hereafter "east" and "west" parking lots), including an area in front of the  
16 City People's store.

17 22. The Property must have accessible parking spaces in a quantity defined by §  
18 208.2 of the 2010 Standards, and a certain number of those accessible parking spaces must be  
19 "van accessible". § 208.2 of the 2010 Standards and § 4.1.2 of the 1991 Standards.

20 23. For a parking facility with 102 spaces there must be a minimum of be four total  
21 accessible parking spaces with at least one of them designated as the van accessible.

22 24. There are only two accessible parking spaces in the West lot and none in the East  
23 lot. As a result, the Property does not have a sufficient number of accessible parking spaces.

1           25.     Where accessible parking can be found, many of the accessible parking spots at  
2 the Property do not meet either the 1991 Standards or the 2010 Standards.

3           26.     Accessible parking spaces must be identified with signage at least 60 inches  
4 above the ground. Signs identifying van parking spaces shall contain the designation "van  
5 accessible." § 502.6 of the 2010 Standards and § 4.6.4 of the 1991 Standards.

6           27.     Van accessible parking spaces shall be 132 inches wide and served by an access  
7 aisle of 60 inches, or 96 inches wide and served by an access aisle of 96 inches. § 502.2 of the  
8 2010 Standards and §§ 4.1.2(5)(b) and 4.3.6 of the 1991 Standards.

9           28.     Regular accessible spaces shall be at least 96 inches wide and served by an access  
10 aisle at least 60 inches wide. § 502.3 of the 2010 Standards and §§ 4.1.2(5)(a) and 4.3.6 of the  
11 1991 Standards.

12           29.     Additionally, Slope of accessible parking spaces must be no greater than 1:48  
13 (approximately 2%) in any direction and must adjoin the accessible route. §§ 502.3-502.4 of the  
14 2010 Standards and § 4.3.6 of the 1991 Standards.

15           30.     Both accessible parking spots in the west parking lot have slope in excess of 1:48.

16           31.     Neither of the access aisles in the west parking lot are wide enough to be  
17 compliant access aisles.

18           32.     The most west parking spot in the west parking lot is insufficiently wide to be a  
19 compliant regular accessible space.

20           33.     Neither of the spots in the west parking lot are designated as van accessible.

21           34.     The east parking lot has zero accessible spots.  
22  
23

1        35. On or about March 20, 2020, counsel for Ms. Killam contacted Defendant to  
2 request Defendant in order to come to an agreement to properly fix the ADA Violations in the  
3 parking lot however that effort was unsuccessful.

4        36. Ms. Killam requires compliant accessible parking and compliant accessible routes  
5 in order to safely patronize Defendant's property using her wheelchair.

6        37. Defendant's property is not safe and is not welcoming for people who use  
7 wheelchairs because it does not comply with the ADA's accessibility laws and regulations.

8        38. The failure of SPBS, LLC to make the property comply with the ADA's  
9 accessibility laws and regulations works to exclude people with disabilities from equal access to  
10 and enjoyment of the Property.

11                                    **V. FIRST CAUSE OF ACTION**  
12                                    **Title III of the Americans with Disabilities Act of 1990**  
   **42 U.S.C. § 12101 *et seq.***

13        39. Ms. Killam incorporates by reference the allegations in the paragraphs above.

14        40. Ms. Killam is limited in the major life activity of walking and is thus an  
15 individual with a disability within the meaning of Title III of the ADA.

16        41. Title III of the ADA states in relevant part: "No individual shall be discriminated  
17 against on the basis of disability in the full and equal enjoyment of the goods, services, facilities,  
18 privileges, advantages, or accommodations of any place of public accommodation by any person  
19 who owns, leases (or leases to), or operates a place of public accommodation." 42 U.S.C. §  
20 12182(a).

21        42. Defendant SPBS, LLC owns the property where the City People's store parking  
22 lot is located.

23        43. City People's is a place of public accommodation under 42 U.S.C. § 12181(7).

1           44. Defendant has discriminated against Plaintiff on the basis of her disability.

2           45. Defendant's discriminatory conduct includes but is not limited to:

3           a. Discriminatory exclusion and/or denial of goods, services, facilities,  
4           privileges, advantages, accommodations, and/or opportunities;

5           b. Provision of goods, services, facilities, privileges, advantages, and/or  
6           accommodations that are not equal to those afforded non-disabled  
7           individuals;

8           c. Failing to make reasonable modifications in policies, practices, and/or  
9           procedures as necessary to afford the goods, services, facilities, privileges,  
10          advantages, and/or accommodations to individuals with disabilities;

11          d. Failing to make alterations in such a manner that, to the maximum extent  
12          feasible, the altered portions are readily accessible to and usable by  
13          individuals with disabilities, including individuals who use wheelchairs;

14          e. Failing to remove barriers to individuals with disabilities where it would  
15          be readily achievable to do so.

16          46. As such, Defendant discriminates and, in the absence of the injunction requested  
17 herein, will continue in the future to discriminate against Plaintiff on the basis of disability in the  
18 full and equal enjoyment of the goods, services, facilities, privileges, advantages,  
19 accommodations and/or opportunities at Defendant's property in violation of Title III of the  
20 Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. and/or its implementing regulations.

21          47. Defendant's discriminatory conduct as has harmed Ms. Killam, and the harm  
22 continues.

23          48. Defendant's discriminatory conduct entitles Ms. Killam to declaratory and

1 injunctive relief. 42 U.S.C. § 12188.

2 49. Defendant's discriminatory conduct entitles Ms. Killam to recover reasonable  
3 attorneys' fees and costs incurred in bringing this action. 42 U.S.C. § 12205.

4 **VI. SECOND CAUSE OF ACTION**  
5 **Violation of the Washington Law Against Discrimination**  
6 **(R.C.W. §§ 49.60.010 et seq.)**

6 50. Ms. Killam incorporates by reference the allegations in the paragraphs above.

7 51. Ms. Killam is an individual with a disability within the meaning of the  
8 Washington Law Against Discrimination.

9 52. Under § 49.60.030(1) of the Revised Code of Washington provides in pertinent  
10 part: "The right to be free from discrimination because of . . . the presence of any sensory,  
11 mental, or physical disability . . . is recognized as and declared to be a civil right. This right shall  
12 include, but not be limited to: . . . (b) The right to the full enjoyment of any of the  
13 accommodations, advantages, facilities, or privileges of any place of public resort,  
14 accommodation, assemblage, or amusement . . ."

15 53. Defendant has violated and continues to violate §§ 49.60.010 *et seq.* of the  
16 Revised Code of Washington by violating multiple accessibility requirements under the ADA.

17 54. Defendant's actions constitute discrimination against persons with disabilities and  
18 violate the Washington Law Against Discrimination, Revised Code of Washington § 49.60.010  
19 et seq., in that persons with mobility disabilities have been and are still denied full and equal  
20 enjoyment of the accommodations, advantages, facilities, privileges, and services that Defendant  
21 provides to individuals who do not have disabilities.

22 55. As a direct and proximate result of Defendant's discriminatory conduct as alleged  
23 in this Complaint, Ms. Killam has suffered and continues to suffer difficulty, hardship, isolation,



1 and segregation due to Defendant's failure to correctly remediate the Property.

2 56. Defendant's discriminatory conduct as alleged in this Complaint has denied Ms.  
3 Killam the full and equal enjoyment of services that the Washington Law Against Discrimination  
4 requires.

5 57. Ms. Killam has a clear legal right to access the businesses located at Defendant's  
6 Property under the Washington Law Against Discrimination.

7 58. Ms. Killam has the right for Defendant's property to comply with the ADA's  
8 accessibility laws and regulations under the Washington Law Against Discrimination.

9 59. Defendant's property does not comply with ADA accessibility laws and  
10 regulations, including the 1991 Standards and the 2010 Standards.

11 60. Because Defendant's property does not comply with the ADA's accessibility laws  
12 and regulations, declaratory and injunctive relief are appropriate remedies under the Washington  
13 Law Against Discrimination. *See e.g. Kucera v. Dep't of Transp.*, 140 Wash. 2d 200, 209 (2000).

14 61. Pursuant to RCW § 49.60.030(2), Ms. Killam is entitled to declaratory and  
15 injunctive relief and to recover from Defendant her reasonable attorneys' fees and costs incurred  
16 in bringing this action.

## 17 **VII. PRAYER FOR RELIEF**

18 WHEREFORE, Ms. Killam respectfully requests that this Court:

19 1. Assume jurisdiction over this action;

20 2. Find and declare Defendant SPBS, LLC to be in violation of Title III of the  
21 Americans with Disabilities Act, 42 U.S.C. § 12181, et seq. and the Washington Law Against  
22 Discrimination, Wash. Rev. Code §§ 49.60.010 et seq. because Defendant's Property does not  
23 comply with the ADA's accessibility laws and regulations;

3. Issue a permanent injunction ordering Defendant to immediately implement the necessary improvements to bring the Defendant's property into compliance with the ADA's accessibility laws and regulations;

4. Award Ms. Killam reasonable attorneys' fees and costs as authorized by 42 U.S.C. § 12205 and Wash. Rev. Code § 49.60.030(2);

5. Award actual, compensatory, and/or statutory damages to Ms. Killam for violations of her civil rights as allowed under state and federal law;

6. Award such additional or alternative relief as may be just, proper, and equitable.

DATED THIS 30th day of March, 2020

By:

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